

Filed for intro on 01/30/95
Senate Bill _____
By _____

House Bill No.HB0124
By Joyce

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17, relative to criminal street gang activities and to enact the "Street Terrorism Enforcement and Prevention Act of 1995".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 17 is amended by adding Sections 2 through 5 of this act as an appropriately numbered new part.

SECTION 2. This title of this part is and may be cited as the "Street Terrorism Enforcement and Prevention Act of 1995."

SECTION 3. (a) The general assembly finds that it is the right of every person, regardless of race, color, creed, religion, national origin, sex, age, sexual orientation, or handicap, to be secure and protected from fear, intimidation, and physical harm caused by the activities of violent groups and individuals. It is not the intent of this part to interfere with the exercise of constitutionally protected rights of freedom of expression and association. The general assembly recognizes the constitutional right of every citizen to harbor and express beliefs on any lawful subject whatsoever, to lawfully associate with others who share similar

beliefs, to petition lawfully constituted authority for a redress of perceived grievances, and to participate in the electoral process.

(b) The general assembly finds, however, that the state is facing a mounting problem caused by criminal street gangs whose members threaten and terrorize peaceful citizens and commit a multitude of crimes. These activities, both individually and collectively, present a clear and present danger to public order and safety and are not constitutionally protected.

(c) It is the intent of the general assembly to eradicate the terror created by criminal street gangs by providing enhanced penalties and by eliminating the patterns, profits, proceeds, and instrumentalities of criminal street gang activity.

SECTION 4. The following definitions apply in this part, unless the context otherwise requires:

(1) "Criminal street gang" means a formal or informal ongoing organization, association, or group of three (3) or more persons who:

(A) Have a common name or common identifying signs, colors, or symbols;

(B) Have members or associates who, individually or collectively engage in or have engaged in a pattern of criminal street gang activity.

(2) "Criminal street gang member" is a person who engages in a pattern of criminal street gang activity and meets two (2) or more of the following criteria:

(A) Admits to criminal street gang membership.

(B) Is a youth under the age of twenty-one (21) years who is identified as a criminal street gang member by a parent or guardian.

(C) Is identified as a criminal street gang member by a documented reliable informant.

(D) Resides in or frequents a particular criminal street gang's area and adopts their style of dress, their use of hand signs, or their tattoos, and associates with known criminal street gang members.

(E) Is identified as a criminal street gang member by an informant of previously untested reliability and such identification is corroborated by independent information.

(F) Has been arrested more than once in the company of identified criminal street gang members for offenses which are consistent with usual criminal street gang activity.

(G) Is identified as a criminal street gang member by physical evidence such as photographs or other documentation.

(H) Has been stopped in the company of known criminal street gang members four (4) or more times.

(3) "Pattern of criminal street gang activity" means the commission, attempted commission, or solicitation of two (2) or more of the following offenses, provided at least one (1) of these offenses occurred after the effective date of this part and the last of these offenses occurred within three (3) years after a prior offense, and the offenses are committed on separate occasions, or by two (2) or more persons:

(A) Assault, as defined in Section 39-13-101.

(B) Robbery, as defined in Section 39-13-401.

(C) Criminal homicide, as defined in Section 39-13-201.

(D) Sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in Section 39-17-402.

(E) Arson or aggravated arson, as defined in Sections 39-14-301-302.

(F) Theft of any vehicle, trailer or vessel, as defined in Section 39-14-103.

SECTION 5. The penalty for any felony or misdemeanor, or any delinquent act or violation of law which would be a felony or misdemeanor if committed by an adult, shall be reclassified if the offender was a member of a criminal street gang at the time of the commission of such offense that meets the criteria of a pattern of criminal street gang activity. The reclassified penalties shall be:

- (a) A Class C misdemeanor shall be punishable as if it were a Class B misdemeanor;
- (b) A Class B misdemeanor shall be punishable as if it were a Class A misdemeanor;
- (c) A Class A misdemeanor shall be punishable as if it were a Class E felony;
- (d) A Class E felony shall be punishable as if it were a Class D felony;
- (e) A Class D felony shall be punishable as if it were a Class C felony;
- (f) A Class C felony shall be punishable as if it were a Class B felony;
- (g) A Class B felony shall be punishable as if it were a Class A felony; and
- (h) A Class A felony shall be punishable one (1) sentence range higher than the range from which the defendant would otherwise be sentenced.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.